Small Business Subcontracting Plans

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SUBCONTRACTING PLANS
FAR 19.7

- What requires the submittal of a Subcontracting Plan?

  - The Small Business Act (added by P.L.95-507)
  - Implementation in FAR 19.700
  - Clause is in FAR 52.219-9
  - Additional implementation and clauses in FAR Sups

Subcontracting Plans

- Section 8(d) of the Small Business Act:

  The SBA is authorized to assist Federal agencies and businesses in complying with their statutory obligations and to evaluate the compliance of **other-than-small businesses** with their Subcontracting Plans.

Subcontracting Plans

- ***"Other-than-small"*** ...any entity that is not classified as a small business.
- Large Businesses
- State and Local Governments
- Non-Profit Organizations
- Public Utilities
- Educational Institutions
- Foreign-owned firms (if any portion of their contract is to be performed in the United States)

Subcontracting Plans

- Any “Other-than-small” business that receives a Federal contract or subcontract over $500,000 (over $1,000,000 for construction of a public facility) must adopt a Subcontracting Plan with separate and distinct goals for SB, SDB, WOSB, HUBZone, SDVet and Vet.

Subcontracting Plans

- The proposed Subcontracting Plan must be accepted and approved by the Contracting Officer ***BEFORE*** the contract can be awarded. Plan becomes a material part of the contract upon award.

Subcontracting Plans

- Any contractor that fails to make a “good faith effort” to achieve the goals in its Subcontracting Plan may be found in material breach of contract and terminated for default, or liquidated damages may be imposed.

Subcontracting Plans

- Subcontracting Plans are **Not** required -

  (1) from small business concerns

  (2) for personal service contracts

  (3) for contracts or contract modifications that will be performed **entirely** outside the U. S etc.

Subcontracting Plans

- **When is a Subcontracting Plan required?**
- Contract or modification > $500,000
- $1 million for construction
- Base year and ***ALL*** option years determine threshold
- Must be subcontracting opportunities
- If determination made that no subcontracting opportunities exist, determination must be approved at a level above the Contracting Officer and placed in contract file

Types of Subcontracting Plans

- **Individual** – specific contract, entire period including options, separate goals and percentages for SB, SDB, WOSB, HUBZone, SDVet, and Vet.
- **Commercial** – entire production of commercial items for offeror's fiscal year… annual Plan…approved by agency awarding offeror its first prime contract requiring a Plan
- **Master** – contains all required elements of Individual Plan **except** goals…must have goals at time of proposal submittal…effective for a three year period

Subcontracting Plans

- 11 detailed requirements (**FAR 19.704**)
- **Far 19.705** - Contracting Officer Responsibilities ***BEFORE AWARD***
- ***DFARS 219-705-4*** .....A small disadvantaged business goal of less than 5% must be approved 2 levels above the contracting officer
- **FAR 19.705-6** - Contracting Officer ***POST AWARD RESPONSIBILITIES***

Subcontracting Plans
11 Elements – FAR 19.704

- 1. Separate % goals, expressed in terms of percentages of total planned subcontracting, to each group (SB, SDB, WOSB, HUBZone, SDVet and Vet)
- 2. Total $ planned to be subcontracted and total $ to be subcontracted to each group
- 3. Types of supplies and services to be subcontracted to each group

Subcontracting Plans
11 Elements – FAR 19-704

- 4. Method used to develop each of the goals
- 5. Method used to identify potential sources
- 6. Indirect goals – statement as to whether or not included in subcontracting goals
- 7. Name of Subcontracting Plan Administrator and description of duties

Subcontracting Plans
11 Elements – FAR 19.704

- 8. Description of efforts that company will make to ensure that all small businesses will have an equitable opportunity to compete for subcontracts
- 9. Assurances that company will “flow-down” subcontracting requirements to its subcontractors
- 10. Assurances that company will cooperate in any studies or surveys and submit Standard Forms 294 and 295
- 11. A recitation of types of records the company will maintain to demonstrate its compliance with the Plan

Subcontracting Plans

- The next several slides have one guiding word throughout:

RESPONSIBILITY

Contracting Officer responsibility

Subcontracting Plans Contracting Officer…Before Award

- 19.705-1 Set Monetary Incentives
- 19.705-2 Determine if proposed procurement meets dollar threshold, subcontracting opportunities exist etc.
- 19.705-3 In preparing solicitation, give SBA PCR reasonable time to review and submit advisory comments, if warranted, **BEFORE** solicitation issued

Subcontracting Plans Contracting Officer…Before Award

- 19.705-4 Review the Subcontracting Plan for adequacy, required information, goals and assurances etc.
- DFARS 219-705-4 Challenge any Subcontracting Plan that does not contain positive goals. **An SDB goal of less than 5% must be approved 2 levels above the Contracting Officer.**

Subcontracting Plans Contracting Officer…Before Award

- 19.705-5 Consider contractor responsibility…Subcontracting Plan compliance in previous contracts
- Complete Subcontracting Plan checklist, submit to Small Business Specialist, and submit to PCR; Congressional report
- Ensure acceptable Plan incorporated into and made a material part of the contract

Subcontracting Plans Contracting Officer Post Award

- 19.705-6 Notify SBA …send award document, which will include the Plan, to the Area Office where contract will be performed, or, if a Commercial Plan, where contractor's headquarters is located. SBA Commercial Market Representative will call on that business for Plan compliance
- Assess Liquidated Damages, if warranted

Subcontracting Plan Goals

- Current Government-wide goals…see section 15(g) of the Small Business Act:
- 23% - Small Business
- 5% - SDB
- 5% - WOSB
- 3% - HUBZone
- 3% - Service Disabled Veteran
- 3% - Veteran